

# **FOURTH DAY**

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**TUESDAY, JANUARY 21, 1997**

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## **PROCEEDINGS**

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carona, Duncan, Ellis, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Cain, Fraser, Luna.

To be elected: District 5.

The President announced that a quorum of the Senate was present.

The Reverend Sterling Lands II, Pastor, Greater Calvary Baptist Church, Austin, offered the invocation as follows:

Dear God, thank You for another opportunity to experience Your blessing. We are gathered today to focus our collective attention on the health, interest, needs, rights, and welfare of our people. Our national government, our state government, our state senate needs Your guidance, Your direction, and Your leadership in every thing. Our prayer is for their wisdom, knowledge, and understanding in their deliberations. We pray for sight, insight, and foresight as they attempt to do the right thing, the right way, for the right reason, expecting the right results, to benefit others and glorify Your name while working on the salvation, education, and liberation of all the citizens of Texas. We pray for freedom from all that entangles our hearts and minds. In the name of Jesus Christ. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of Thursday, January 16, 1997, was dispensed with and the Journal was approved.

## **LEAVES OF ABSENCE**

On motion of Senator Truan, Senator Cain was granted leave of absence for today on account of important business.

On motion of Senator Truan, Senator Fraser was granted leave of absence for today on account of important business.

On motion of Senator Truan, Senator Luna was granted leave of absence for today on account of important business.

**CO-AUTHOR OF SENATE JOINT RESOLUTION 12**

On motion of Senator Patterson and by unanimous consent, Senator Ellis will be shown as Co-author of **SJR 12**.

**CO-AUTHORS OF SENATE BILL 35**

On motion of Senator West and by unanimous consent, Senators Carona, Patterson, Zaffirini, and Whitmire will be shown as Co-authors of **SB 35**.

**CO-AUTHOR OF SENATE BILL 171**

On motion of Senator Barrientos and by unanimous consent, Senator Ellis will be shown as Co-author of **SB 171**.

**CO-AUTHOR OF SENATE BILL 173**

On motion of Senator Patterson and by unanimous consent, Senator Ellis will be shown as Co-author of **SB 173**.

**CO-AUTHOR OF SENATE BILL 177**

On motion of Senator Barrientos and by unanimous consent, Senator Ellis will be shown as Co-author of **SB 177**.

**CO-AUTHOR OF SENATE BILL 179**

On motion of Senator Barrientos and by unanimous consent, Senator Ellis will be shown as Co-author of **SB 179**.

**CO-AUTHOR OF SENATE BILL 211**

On motion of Senator Ellis and by unanimous consent, Senator Zaffirini will be shown as Co-author of **SB 211**.

**CO-AUTHOR OF SENATE BILL 212**

On motion of Senator Ellis and by unanimous consent, Senator Zaffirini will be shown as Co-author of **SB 212**.

**CO-AUTHOR OF SENATE BILL 213**

On motion of Senator Ellis and by unanimous consent, Senator Zaffirini will be shown as Co-author of **SB 213**.

**CAPITOL PHYSICIAN**

Senator Wentworth was recognized and presented Dr. Raymond Smith of Fredericksburg as the "Doctor for the Day."

The Senate welcomed Dr. Smith and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

**MESSAGE FROM THE HOUSE**

**HOUSE CHAMBER**

Austin, Texas

Tuesday, January 21, 1997

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HCR 1**, Inviting the governor to address a joint session of the legislature on Tuesday, January 28, 1997, at 11 a.m.

**HCR 32**, Granting permission to the YMCA Youth and Government Program to use the house and senate chambers.

**SCR 5**, Granting each house permission to adjourn for more than three days during the period beginning on January 15, 1997, and ending on January 21, 1997.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**PROCLAMATION FROM THE GOVERNOR**

The following Proclamation from the Governor was read and was filed with the Secretary of the Senate:

**P R O C L A M A T I O N**  
**BY THE**  
**GOVERNOR OF THE STATE OF TEXAS**  
41-2673

TO ALL TO WHOM THESE PRESENTS SHALL COME:

TO THE MEMBERS OF THE SENATE AND THE HOUSE  
OF REPRESENTATIVES OF THE 75TH LEGISLATURE, REGULAR  
SESSION:

Pursuant to Article III, Section 5, of the Texas Constitution, I, George W. Bush, Governor of the State of Texas, submit the following emergency matter for immediate consideration by the 75th legislature, now convened:

Relating to purported judgments and other documents from  
purported courts which have not been expressly established and  
created under the constitution or laws of this State.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the Seal of the State to be affixed hereto at my office in the City of Austin, on this the 16th day of January, 1997.

/s/George W. Bush  
Governor of Texas

Attest:

/s/Antonio O. Garza, Jr.  
Secretary of State

### SENATE RESOLUTION 36

Senator Truan offered the following resolution:

WHEREAS, The Senate of the State of Texas takes great pride in welcoming several distinguished visitors from Brazil who have been invited to the United States through the International Visitor Program of the United States Information Agency; and

WHEREAS, These honored visitors come to the Capitol of Texas to observe the geographical and cultural diversity of our country and to study the dynamics of state legislative bodies; and

WHEREAS, The goals of the International Visitor Program are to arrange opportunities for the delegation to better appreciate the ethnic, social, economic, geographic, and cultural diversities of the United States and to observe how these variables affect American federalism; and

WHEREAS, These eminent guests honoring us by their visit are Anselmo De Oliveira Andrade, Humberto Teixeira Aveiro, Marcia Fortuna Biato, Adolfo Costa Araujo Rocha Furtado, Sandro Silva Goncalves, and Dirceu Ventura Teixeira; and

WHEREAS, Legislative advisor to the House of Representatives since 1991, Anselmo De Oliveira Andrade has spent 21 years as a fiscal auditor of the National Treasury; he earned a master's degree in economics from the University of Brasilia in 1976, and he is a member of the Regional Economic Council; and

WHEREAS, Legislative consultant to the Federal Senate since 1985, Humberto Teixeira Aveiro has been Coordinator of International Issues, International Affairs Secretariat, Ministry of Planning and Budget from 1982 through 1985; he earned his economics degree from the University of Brasilia; and

WHEREAS, Marcia Fortuna Biato has been a legislative consultant to the Federal Senate since 1985 and was Coordinator of International Financial Cooperation of the Ministry of Interior from 1982 through 1985; she earned her master's degree in economics from the University of Brasilia in 1982; and

WHEREAS, Sandro Silva Goncalves is a legislative advisor and has worked in the House of Representatives since 1985; he was educated at the University of Brasilia, where he specialized in architecture and urban planning; he is a member of the Regional Council of Engineering, Architecture and Agronomy, and the Brazilian Architects Institute; and

WHEREAS, Dirceu Ventura Teixeira is a legislative consultant who has worked in the Federal Senate since 1985; he has a degree in economic science from the University of Brasilia and was formerly a fiscal auditor for the Federal District Treasury and a legislative technician for the Federal District Legislative Assembly; and

WHEREAS, Adolfo Costa Araujo Rocha Furtado is a legislative advisor who has worked in the House of Representatives since 1985; he has a master's degree in economic science from the University of Brasilia; he formerly served with the Ministry of Labor as the National Secretary of Labor and as the Head of the Minister's Economic Advisory Staff; he is a member of the Brazilian Association of Labor Studies and the Federal District Chapter of the Regional Council of Economy; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby express hospitality and a warm welcome to the members of the Brazilian delegation; and, be it further

RESOLVED, That a copy of this Resolution be prepared for them as an expression of the highest esteem of the Texas Senate.

The resolution was read.

On motion of Senator Brown and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Truan, the resolution was adopted by a viva voce vote.

**(Senator Bivins in Chair)**

#### **GUESTS PRESENTED**

Senator Truan was recognized and introduced to the Senate the following delegation from Brazil: Mr. Anselmo de Oliveira Andrade, Legislative Advisor, House of Representatives; Mr. Humberto Teixeira Aveiro, Legislative Consultant, Federal Senate; Ms. Marcia Fortuna Biato, Legislative Consultant, Federal Senate; Mr. Adolfo Costa Araujo Rocha Furtado, Legislative Advisor, House of Representatives; Mr. Sandro Silva Goncalves, Legislative Advisor, House of Representatives; Mr. Dirceu Ventura Teixeira, Legislative Consultant, Federal Senate; escorted by Ms. Edmea McCarty and Ms. Sylvia Moraes.

The Senate welcomed its distinguished guests.

**(President in Chair)**

#### **HOUSE CONCURRENT RESOLUTION 32**

The President laid before the Senate the following resolution:

**HCR 32**, Granting permission to the YMCA Youth and Government Program to use the house and senate chambers.

**HAYWOOD**

The resolution was read.

On motion of Senator Haywood and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

#### HOUSE CONCURRENT RESOLUTION 1

The President laid before the Senate the following resolution:

**HCR 1**, Inviting the Governor to address a joint session of the legislature on Tuesday, January 28, 1997, at 11:00 a.m.

HARRIS

The resolution was read.

On motion of Senator Harris and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

#### SENATE RESOLUTION 19

Senator Patterson offered the following resolution:

WHEREAS, The national organization of the Sons of Confederate Veterans, a nonpolitical, historical, and patriotic society, was organized at Richmond, Virginia, in July, 1896; and

WHEREAS, The society is composed of male descendants of veterans of the Confederate armed forces who served honorably in the War Between the States from 1861 to 1865; and

WHEREAS, The Sons of Confederate Veterans has worked for over a century to preserve the history and legacy of the Confederacy through a variety of activities such as preservation work, historical reenactments, scholarly publications, and the marking of Confederate soldiers' graves; and

WHEREAS, John B. Hood was the commander of the renowned Hood's Texas Brigade that served valiantly during the War Between the States; and

WHEREAS, The John B. Hood Camp 50 of the Sons of Confederate Veterans was organized at Galveston, Texas, on January 21, 1897, and served honorably through four decades; and

WHEREAS, The Great Depression, World War II, and the loss of many of the camp's original members led to the group's demise; and

WHEREAS, Due to a revival of local interest in the War Between the States, the Sons of Confederate Veterans is reinstituting the John B. Hood Camp 50 at Galveston on January 21, 1997, on the 100th anniversary of the original camp's founding; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby designate January 21, 1997, as John B. Hood Camp 50 Day in honor of the officers and members of the newly reactivated organization and in appreciation of their mission to preserve the history and legacy of the late Confederate States of America and the role of Texas therein; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the organization as an expression of the good will and high regard of the Texas Senate.

The resolution was read and was adopted by the following vote:  
Yeas 26, Nays 1.

Nays: West.

Absent-excused: Cain, Fraser, Luna.

**SENATE RESOLUTION 35**

Senator Madla offered the following resolution:

WHEREAS, The Senate of the State of Texas takes great pride in honoring Texas State Senator Eddie Lucio, Jr., on the auspicious occasion of his 51st birthday on January 20, 1997; and

WHEREAS, Born on January 20, 1946, in Brownsville, Eddie Lucio is one of 10 sisters and brothers; he graduated from Pan American University at Edinburg in 1972 with a bachelor of science degree in education; and

WHEREAS, After running for office in 1970 for Cameron County Treasurer, he was elected and became the youngest treasurer in the history of the state; and

WHEREAS, This noted gentleman served as Commissioner of Cameron County, Precinct 2, from 1979 to 1982; in 1986, he ran for and was elected Texas State Representative from District 39; and

WHEREAS, Making a successful bid for Texas State Senator in 1990, Eddie Lucio was elected from District 27 and ably represents the Rio Grande Valley; and

WHEREAS, During his first term, he was appointed to the State Affairs, Natural Resources, and Intergovernmental Relations Committees; the vice-chair of the Senate Economic Development Committee in 1993, Senator Lucio served as chair of the Senate Subcommittee on Agriculture during the 74th Legislature; he also served on the Senate Subcommittee on Veteran Affairs and the committees on Economic Development, Finance, and International Relations; and

WHEREAS, During the 75th Legislature, Senator Lucio was appointed by Lieutenant Governor Bob Bullock to chair the Senate Intergovernmental Relations Committee; he also serves on the committees on Economic Development, Finance, and Natural Resources; and

WHEREAS, The recipient of many awards, Senator Lucio earned the designation of Legislator of the Year from the Texas Municipal League, State Senator of the Year from the Combined Law Enforcement Associations of Texas, and the 1994 Senator John A. Traeger Award for Legislator of the Year by the Texas Public Employees Association; and

WHEREAS, This notable public servant has earned the approbation of his peers and the enthusiastic support of his constituents; and

WHEREAS, This will be his 51st birthday; unfortunately, the Senate was not in session for his landmark birthday last year and did not witness the submission of his application for membership in the Association for the Advancement of Retired People (AARP) and "Senior Friends"; and

WHEREAS, The only thing more important to Senator Lucio than playing golf is being a member of the Senate and playing golf with the rules of Senatorial Courtesy; and

WHEREAS, Sharing in the concerns and the accomplishments of this distinguished senator are his lovely wife, Minnie, and his children, Lynda and Eddie III; they and all of his colleagues truly wish for a very happy birthday for Senator Lucio; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby extend happy birthday greetings with many happy returns to Senator Eddie Lucio, Jr.; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of highest esteem and regard of the Texas Senate.

MADLA  
BROWN

The resolution was read.

On motion of Senator Brown and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Madla, the resolution was adopted by a viva voce vote.

**SENATE BILLS AND RESOLUTIONS ON FIRST READING**

The following bills and resolutions were introduced, read first time, and referred to the committees indicated:

**SB 217** by Zaffirini, Lucio, Nelson, Ellis, Shapiro, Truan, Shapleigh  
Relating to coverage under certain health benefit plans for reconstructive surgery incident to a mastectomy.  
To Committee on Economic Development.

**SB 218** by Ratliff  
Relating to the examination fee for licensure as an architect.  
To Committee on Finance.

**SB 219** by Haywood  
Relating to the application of the professional prosecutors law to the district attorney for the 100th Judicial District.  
To Committee on Jurisprudence.

**SB 220** by Bivins, Carona, Haywood, Galloway  
Relating to lawsuits arising outside or brought by persons who reside outside of Texas.  
To Committee on Economic Development.

**SB 221** by Sibley  
Relating to the suspension or revocation of a real estate license for failure to include a termination date in certain real estate contracts.  
To Committee on State Affairs.

**SB 222** by Sibley, Ellis  
Relating to retirement benefits payable for service as a district or criminal district attorney.  
To Committee on Jurisprudence.

**SB 223** by Sibley  
Relating to continuing education requirements for real estate brokers and salesmen.  
To Committee on State Affairs.

**SB 224** by Sibley  
Relating to the authority of county judges to issue certain search warrants.  
To Committee on Jurisprudence.



**SB 225 by Sibley**

Relating to vehicle license plates for certified aircraft pilots.

To Committee on Finance.

**SB 228 by Armbrister**

Relating to certain counterfeit trademarks, service marks, or identification marks in connection with the sale or manufacture of goods and services; providing penalties.

To Committee on International Relations, Trade, and Technology.

**SB 229 by Carona, Truan**

Relating to the regulation of air conditioning and refrigeration contractors; providing penalties.

To Committee on International Relations, Trade, and Technology.

**SB 230 by Carona**

Relating to the punishment for the offense of evading arrest.

To Committee on Criminal Justice.

**SB 231 by Carona, Nelson, West**

Relating to sources of names for the jury wheel.

To Committee on Jurisprudence.

**SB 232 by Carona**

Relating to an optional majority vote requirement for election of trustees in certain independent school districts.

To Committee on Education.

**SB 233 by Carona**

Relating to a student disciplinary hearing in which a student accuses another student of misconduct.

To Committee on Education.

**SB 234 by Carona**

Relating to a civil procedure for clearing or destroying certain recorded documents.

To Committee on Jurisprudence.

**SB 235 by Carona**

Relating to the designation of Spur 408 in Dallas County as Patriot Parkway.

To Committee on International Relations, Trade, and Technology.

**SB 236 by Lindsay, Galloway**

Relating to the right of voters in a municipality to participate in municipal elections.

To Committee on Intergovernmental Relations.

**SB 237 by Nixon**

Relating to competitive bids for state lottery contracts.

To Committee on State Affairs.

**SB 238 by Nixon**

Relating to state lottery contracts.

To Committee on State Affairs.

**SB 239** by West

Relating to judicial review of certain decisions about public assistance benefits administered by the Texas Department of Human Services.  
To Committee on Jurisprudence.

**SB 240** by West

Relating to the recall of an elected official in a general-law municipality.  
To Committee on Intergovernmental Relations.

**SB 241** by West, Ellis

Relating to construction contract provisions, construction trust funds, and the creation of and management policies applicable to a construction account created to hold funds associated with a construction contract; providing criminal penalties.  
To Committee on Jurisprudence.

**SB 242** by Moncrief

Relating to the creation of an offense for the acquisition of a handgun by a person while under an active protective order or a magistrate's order.  
To Committee on Criminal Justice.

**SB 243** by Harris

Relating to a child's property damage to a hotel.  
To Committee on Jurisprudence.

**SB 244** by Harris

Relating to the exemption of certain military veterans and the children of certain military personnel from certain fees.  
To Committee on Finance.

**SB 245** by Harris

Relating to implementation of a school uniform policy at a public school.  
To Committee on Education.

**SB 246** by Nelson

Relating to excused absences from public school attendance.  
To Committee on Education.

**SB 247** by Nelson

Relating to compulsory attendance in public schools.  
To Committee on Education.

**SB 248** by Nelson

Relating to the terms of tax abatement agreements entered into by the Dallas County Flood Control District No. 1.  
To Committee on Economic Development.

**SJR 15** by Harris

Proposing a constitutional amendment relating to appropriations for the preservation and perpetuation of certain items of historical value; allowing the legislature and state agencies to accept on behalf of the state gifts of items of historical value and contributions to purchase such items.  
To Committee on Administration.

**SCR 6** by Haywood

Granting the YMCA youth and government program permission to use the house and senate chambers, auditorium, and committee rooms on January 23, 24, and 25, 1997, and on February 5, 6, and 7, 1998.  
To Committee on Administration.

**MORNING CALL CONCLUDED**

The President at 11:30 a.m. announced the conclusion of morning call.

**SENATE RULE 11.19 SUSPENDED**  
**(Posting Rule)**

On motion of Senator Harris and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Administration might consider **SJR 15** today.

**SENATE RULE 11.11 SUSPENDED**  
**(Posting Rule)**

On motion of Senator Wentworth and by unanimous consent, Senate Rule 11.11 was suspended in order that the Subcommittee on Water might meet today.

**MEMORIAL RESOLUTIONS**

**SR 14** - by Ellis: In memory of Josephine Radford Edwards of Houston.

**SR 15** - by West: In memory of Mable M. Jackson Chandler of Dallas.

**SR 20** - by West: In memory of Lucious C. Wagner.

**SR 39** - by Bivins: In memory of Arthur P. Bralley of Amarillo.

**CONGRATULATORY RESOLUTIONS**

**SCR 7** - by Shapiro: Congratulating Mary Anne Seale of Plano.

**SR 16** - by Barrientos: Congratulating the Bells of Joy of Austin.

**SR 17** - by Barrientos: Congratulating Jean Ruth Atkinson.

**SR 18** - by Armbrister: Congratulating Dr. Pheng Kol.

**SR 21** - by Cain: Congratulating Mr. and Mrs. Lawrence Chambers of Royse City.

**SR 22** - by Cain: Congratulating Ralph and Helen Gibson of Kingston.

**SR 23** - by Cain: Congratulating Reuben and Betty Hagler of Kaufman.

**SR 24** - by Cain: Congratulating Clyde and Vera Mae Hall of Honey Grove.

**SR 25** - by Cain: Congratulating the Reverend Freeman Pearson and Hellen Pearson.

**SR 26** - by Cain: Congratulating Tiny Ruth and J. H. "Buddy" Nix, Jr., of Greenville.

**SR 27** - by Cain: Congratulating Eric Robinson of Greenville.

**SR 28** - by Cain: Congratulating David Peron of Greenville.

**SR 29** - by Bivins: Congratulating the Hereford High School girls volleyball team.

**SR 30** - by Cain: Congratulating LaVelle and Clyde Terry, Jr., of Greenville.

**SR 31** - by Cain: Congratulating Garland and Faye Rozell.

**SR 32** - by Cain: Congratulating Fannin County Judge Jimmy Doyle.

**SR 34** - by Truan: Congratulating Freddie Martinez, Sr., of Corpus Christi.

**SR 37** - by Carona: Congratulating G. W. and Bobbie Taylor.

**SR 40** - by Bivins: Congratulating Sarah Butler of Amarillo.

#### **ADJOURNMENT**

On motion of Senator Truan, the Senate at 11:38 a.m. adjourned until 12:00 noon tomorrow.